

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HIGHMARK INC., *et al.*

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

Case No. 20-1686
(Judge Kaplan)
JOINT STATUS REPORT

Pursuant to the Court’s November 17, 2021 order (ECF No. 17) the parties respectfully submit this joint status report. The November 17 order continued the stay in these proceedings, and directed the parties to file a joint status report proposing further proceedings by January 3, 2022.

In July, 2021, shortly after the U.S. Supreme Court denied the petition for writ of certiorari (No. 20-1162) and the Government’s conditional cross-petition (No. 20-1432) in *Maine Community Health Options v. United States*, which sought review of the Federal Circuit’s CSR decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020), the parties began discussions regarding the next steps in this litigation. Several different attorneys, collectively representing a large number of plaintiff health plans—including the plaintiff here—engaged Government counsel in discussions regarding potential resolution of the CSR matters through settlement.

On December 3, 2021, Plaintiffs’ counsel shared a proposal with the Government to attempt to collectively resolve the damages and mitigation issues in the CSR cases without further litigation or to significantly streamline resolution of the remaining damages/mitigation

issues in these cases. The Government is reviewing the proposal and consulting with the client agency and its actuaries. The Government hopes to provide Plaintiffs with a substantive response by late January. The parties' resolution efforts are progressing and the parties respectfully request that the stay of this matter continue for an additional 60 days, at which time the parties will file a joint status report. Good cause exists for the Court to continue the existing stay of this case. The parties are working together to determine whether they may efficiently resolve this matter without further litigation or can at least streamline the damages and mitigation issues in this case. The complexity of the CSR cases and the large number of interested stakeholders, necessitates that the parties be afforded additional time to complete these efforts. The parties therefore jointly propose that they file a status report by March 4, 2022, in which the parties will update the Court on the status of their efforts to resolve this matter.

In addition, continuing the stay is warranted given that the Government has agreed that it will stipulate to liability and damages for Plaintiffs' claims for CSR amounts owed for 2017 in this case and the parties will work together in the next 30 days to present the Court with a joint stipulation and motion for entry of partial final judgment as to CSR damages the Government owes Plaintiffs for 2017 in this case.

Dated: January 3, 2022

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